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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,837	11/01/2001	Jamie Kellner	3054-045	3643

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EXAMINER

SALCE, JASON P

ART UNIT PAPER NUMBER

2614

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/002,837	<b>Applicant(s)</b> KELLNER ET AL.	
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/1/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 11/01/2001 was filed after the filing date of the instant application on 11/1/2001. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-6, 8-11, 15-17, 20-23, 26, 29, 31-38 and 40-45 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over

claims 23-28 of U.S. Patent No. 6,927,802. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Referring to claim 1 of the '837 application, a video signal processor is met by the video signal processor in claim 23 of the '802 patent.

a tuner adapted to receive a composite video signal, said composite video signal including a video channel that carries a video signal for an audio-visual program, a main audio channel that carries a standard audio track for said program, and a SAP channel carrying an alternative audio track for said program, said alternative audio track being a modified version of said standard audio track of the '837 application, is met by the corresponding tuner limitations of the '802 patent in claim 23. Note that the difference between the two sets of limitations is that the SAP audio track carries a different audio track in the '802 patent and a modified audio track in the '873 application. As taught by applicant's own specification, that a SAP audio track that is different is also equivalent to a modified version of the audio track, because in a typical system that supports a SAP signal, a Spanish version of the main audio channel is provided using the SAP audio track.

a selector adapted to select one of said standard and alternative audio tracks as the active audio track of the '837 application, is met by the corresponding selector limitations of the '802 patent in claim 23.

output circuitry coupled to said tuner and generating output audio and video signals, said audio corresponding to said active audio track of the '837

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application is met by the screen and speaker limitations of the '802 patent in claim 23.

Referring to claims 2-4 of the '873 application, see the limitations in claims 24-26 of the '802 patent.

Referring to claims 5-6 of the '873 application, see the limitations in claim 27 of the '802 patent.

Referring to claims 8, 11 and 33 of the '873 application, see the rejection of claim 1.

Referring to claims 9, 34-36 and 40-43 of the '873 application, see claims 24-26 of the '802 patent.

Referring to claims 10, 37-38 and 44-45 of the '873 application, see claim 27 of the '802 patent.

Referring to claims 15-17 of the '873 application, see claim 9 of the '802 patent.

Referring to claims 20-21 of the '873 application, see claim 13 of the '802 patent.

Referring to claims 22 and 31 of the '873 application, see claim 14 of the '802 patent.

Referring to claim 23 of the '873 application, see claim 15 of the '802 patent.

Referring to claims 26 and 32 of the '873 application, see claim 16 of the '802 patent.

Referring to claim 29 of the '873 application, see claims 17-18 of the '802 patent.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 40-45 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims describe a natural phenomenon such as electricity or magnetism described in the MPEP 2106 IV B1(c).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-45 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Block et al. (U.S. Patent No. 6,675,384).

Referring to claim 1, Block discloses a video signal processor (see viewer station equipment 20 in Figures 1, 5 and 6).

Block also discloses a tuner (see tuner 50 in Figure 5) adapted to receive a composite video signal (see program signal in Figure 5), said composite video signal including a video channel that carries a video signal for an audio visual program (see Figure 5 for the output of the demodulator containing a video signal), a main audio

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channel that carries a standard audio track for said program (see Figure 5 for the output of the demodulator containing an audio signal), and a SAP channel carrying an alternative audio track for said standard audio track (see Figure 5 for the output of the demodulator containing a substitute audio signal and also note Column 19, Lines 26-32 for the substitute audio signal coming from a SAP channel).

Block also discloses a selector (remote control unit at Column 12, Lines 3-9) adapted to select one of said standard and said alternative audio tracks as the active audio track (see Column 11, Line 59 through Column 12, Line 9).

Block also discloses output circuitry coupled to said tuner (see modulator 130 in Figures 5 and 6) and generating output audio and video signals (see Column 17, Lines 9-11), said output audio signals corresponding to said active audio track (see Column 20, Lines 2-5).

Referring to claim 2, Block discloses that the standard audio track is composed of first segments and said alternate audio track is composed of second segments, and a substantial number of said first and second segments are identical (see Column 10, Lines 13-24 for dividing the program according to the TIL labels, which dictate that certain portions (rated R) can be provided substitution audio or video signals).

Referring to claim 3, see the rejection of claim 2 and also note Column 19, Lines 18-52 for the function of substituting the portions of the audio and also note Column 20, Lines 6-27 for substituting video portions.

Referring to claim 4, see the rejection of claims 2-3.

Referring to claim 5, see the rejection of claims 2-3 and further note Column 4, Lines 25-28.

Referring to claim 6, Block discloses that said main and alternative audio tracks are customized for viewer with different demographic characteristics (see Column 13, Lines 5-22 and 58-67 for generating local information labels (LIL) according to a user's demographic characteristics (preferences)).

Referring to claim 7, Block discloses a latch having a set and reset mode responsive to a code, wherein said selector is coupled to said latch and is adapted to designate an active audio track when said latch is set, which cannot be changed by a viewer without resetting the latch (see Column 14, Lines 6-65).

Referring to claim 8, see the rejection of claims 1-2.

Referring to claim 9, see the rejection of claim 3.

Referring to claims 10-11, see the rejection of claims 5-6, respectively.

Referring to claim 12, Block discloses that said B segments are targeted to a general viewer population and said C segments are targeted to a viewer population at a specific geographic location (see again Column 13, Lines 5-22 and 58-67 for generating local information labels (LIL) according to a user's demographic characteristics (preferences) and that Blocks invention can be provided to multiple viewers (see Column 3, Lines 48-51), therefore parents and children (different viewing populations) can view certain segments at certain geographic locations).

Referring to claim 13, see the rejection of claim 1 for the use of a remote control.

Referring to claim 14, see the rejection of claim 7.



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Referring to claim 15, see the rejection of claim 1 and 12 for a plurality of video signal processors at various geographic locations.

Referring to claims 16-20, see the rejection of claims 2-6, respectively.

Referring to claim 21, see the rejection of claim 6 and note that the program signals are "broadcast" to multiple viewers (see Column 3, Lines 48-51).

Referring to claims 22-23, see the rejection of claims 1-4.

Referring to claim 24, see the rejection of claim 13.

Referring to claim 25, see the rejection of claims 7 and 14.

Referring to claim 26, see the rejection of claim 1.

Referring to claim 27, see the rejection of claim 3.

Referring to claims 28-29, see the rejection of claims 5-6, respectively.

Referring to claim 30, see the rejection of claim 21.

Referring to claim 31-32, see the rejection of claims 1-4 and 12.

Referring to claim 33, see the rejection of claim 1 and note that Block further teaches a screen and speaker to display and produce, video and audio signals, respectively (see Figure 5 for an output to a TV and Column 23, Lines 58-64 and Column 20, Lines 4-27).

Referring to claims 34-39, see the rejection of claims 2-7, respectively.

Referring to claims 40-45, see the rejection of claims 1-6, respectively.

### ***Conclusion***

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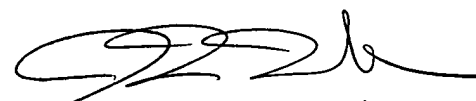
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner  
Art Unit 2614

December 13, 2005



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